

1 UNITED STATES DISTRICT COURT
 2 SOUTHERN DISTRICT OF NEW YORK
 3
 4 ROCKLAND VENDING CORP.,
 5 Plaintiff,
 6
 7 -against- 07-CIV-6268
 8 (WP) (MPF)
 9
 ROXANNE CREEN,
 sued in her individual capacity,
 MARSHA F. RILEY,
 sued in her individual capacity,
 STEWART KIDDER,
 sued in his individual capacity,
 10 Defendants.
 11
 12 STENOGRAPHIC MINUTES OF EXAMINATION BEFORE
 13 TRIAL conducted of GEORGE GLASSANOS on the 23rd
 14 day of January, 2008, at the offices of the New
 15 York State Attorney General, State Capitol,
 16 Albany, New York, commencing at 12:56 p.m.;
 17 before SADIE L. HERBERT, a Shorthand Reporter and
 18 Notary Public within and for the State of New
 19 York.
 20
 21 ORIGINAL
 22
 23
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 2 APPEARANCES:
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 4
 5 ON BEHALF OF PLAINTIFF:
 6 SUSSMAN & WATKINS
 7 PO Box 1005
 8 Goshen, New York 10924
 9 BY: MICHAEL SUSSMAN, ESQ.
 10
 11
 12 ON BEHALF OF DEFENDANTS:
 13 OFFICE OF THE NEW YORK STATE ATTORNEY GENERAL
 14 120 Broadway
 15 New York, New York 10271
 16 BY: DANIEL SCHULZE, ESQ.
 17 Assistant Attorney General
 18
 19
 20 ALSO PRESENT:
 21 MICHAEL FREED, Plaintiff
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S T I P U L A T I O N S

It is hereby stipulated and agreed by and between the attorneys for the respective parties hereto that the signing and filing of the Notary's Oath be waived; that the examination be conducted before Sadie L. Herbert, a Shorthand Reporter and Notary Public in and for the State of New York; that the filing of the transcript of testimony in the Office of the Clerk of the Court be waived; that the examining party will furnish the examined party one copy of the transcript of testimony as taken without cost or charge; that all objections to questions, except as to the form thereof, are specifically reserved to the time of trial; and that the transcript of testimony may be signed before any Notary Public or other officer authorized to administer oaths.

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George Glassanos

GEORGE GLASSANOS,
 (first duly sworn by the Notary Public, was
 examined and testified as follows):
 EXAMINATION
 BY MR. SUSSMAN:
 Q. Good afternoon, Mr. Glassanos.
 A. Good afternoon.
 Q. Is that the correct pronunciation?
 A. Yes, that is correct.
 Q. I'm Mike Sussman from Goshen, New York, and I
 represent Mr. Freed, Mr. Gallagher, Rockland Vending
 in this federal case which is now pending in the
 Southern District and has been so pending for about
 eight or nine months.
 By agreement, we're here taking your deposition,
 understanding that you are counsel, perhaps deputy
 counsel at DOCS. And normally, information that you
 have might be attorney-client privilege, but due to
 conversations we previously had with the Court and
 with Counsel, I am here to ask you some questions
 concerning those contacts.
 If during the course of the day, however long
 this takes, we have questions, we may have to call the
 Court to get rulings. I don't want to have to bring

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1 you back. I'm not entirely sure of the parameters of
 2 the exception of the attorney-client privilege which
 3 we've agreed upon, since there's no real documentation
 4 of that. So if issues come up that you at least feel
 5 are without what you understand to be the parameters,
 6 you'll have to let us know, Mr. Schulze know, and we
 7 can determine how to proceed.

8 Otherwise, it's a normal deposition, meaning that
 9 I'll ask you a simple question and a single question,
 10 please understand and answer the question. If you
 11 don't understand the question, indicate that and I'll
 12 ask you a question that hopefully you will understand.
 13 If you don't know an answer, like any other witness,
 14 indicate you don't know or don't recall, and don't
 15 speculate or guess. If you do know an answer, whoever
 16 it helps or hurts, provide the answer. And if you
 17 need a break at any time, please indicate that and
 18 we'll take a break. Okay?

19 A. Very good.

20 Q. And you know to answer questions in a verbal manner as
 21 opposed to gesticulating, gesturing or other more
 22 informal means?

23 A. Mm-hmm.

24 Q. Have you ever had a deposition of yours taken before?

George Glassanos

1 A. Once.
 2 Q. How many years ago?
 3 A. 20.
 4 Q. Have you ever taken a deposition of another person?
 5 A. No.
 6 Q. What is your current job title?
 7 A. I beg your pardon?
 8 Q. What is your current job title?
 9 A. Deputy Counsel.
 10 Q. Are you the only deputy counsel?
 11 A. No, there are two.
 12 Q. Who do you report to as of May of 2007?
 13 A. The General Counsel.
 14 Q. Whose name was?
 15 A. Anthony Annucci, A-N-N-U-C-C-I, Deputy Commissioner
 16 and Counsel, that's his full title.
 17 Q. How long have you worked for DOCS?
 18 A. Since March 1981.
 19 Q. When did you graduate law school?
 20 A. 1976.
 21 Q. Did you work for another State agency between '76 and
 22 '81?
 23 A. No.
 24 Q. And you've worked continuously for DOCS since 1981?

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1 A. Correct.
 2 Q. And always in the General Counsel's Office?
 3 A. Yes.
 4 Q. And in Albany?
 5 A. Yes.
 6 Q. In that 26 year period, between '81 and '07, had you
 7 ever before given an opinion with regard to self-help
 8 by a facility?

9 MR. SCHULZE: You can answer yes or no.

10 A. I don't believe I've given advice, but I've had
 11 discussions.

12 Q. So the answer is no, you've never given an opinion to
 13 a facility?

14 A. That's correct.

15 Q. Okay. That was the question.

16 A. That's correct.

17 Q. There's a document which has previously been marked,
 18 Invitation to Bids for Vending Machine Services, as
 19 Exhibit 1 to a deposition a number of months ago. Can
 20 you yourself identify that document as a document
 21 you've seen and read before today?

22 MR. SCHULZE: We're referring to Creen
 23 Exhibit 1.

24 MR. SUSSMAN: Right.

George Glassanos

1 THE WITNESS: I beg your pardon?
 2 MR. SCHULZE: I'm just identifying the
 3 document for the record as Creen Exhibit 1.
 4 A. I don't recall seeing it, but I may have been shown
 5 it, but I don't recall it.
 6 Q. It's a lengthy document, did you play -- and you can
 7 look at it if you need to, I'm not trying to rush
 8 you -- the question is: Did you play any part in
 9 composing any of that?
 10 A. No.
 11 Q. Do you have any knowledge of who composed the
 12 Invitation to Bid?
 13 A. No.
 14 Q. Do you know whether it was done in the Counsel's
 15 Office?
 16 A. I don't know that.
 17 Q. Would you take a look, please, to facilitate this,
 18 would you take a look -- I'm showing you Appendix A,
 19 Standard Clauses for all New York State Contracts,
 20 that's an appendix which is part of Creen 1. Have you
 21 ever seen those pages before today, to your knowledge?
 22 A. I'm quite sure that I have because I think that I've
 23 seen every reissue of the Standard State Clauses from
 24 1981 when I started work with Correctional Services to

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1 the present time. This one is dated November, 2000,
 2 so I would guess, yes.

3 Q. Did you read that document over in 2007 with regard to
 4 this controversy?

5 A. I read the current version of this document, of
 6 Appendix A.

7 Q. And when did you do that?

8 A. Probably 20 times in the entire calendar year in
 9 connection with other contractual matters.

10 Q. So you would consider yourself fully familiar with
 11 that appendix?

12 A. I'm familiar with it.

13 Q. Did any part of that -- did you discuss any part of
 14 that appendix with Stew Kidder in May of 2007?

15 A. I might have.

16 Q. Well, do you remember doing so? That's the question.

17 A. No I don't. No, I don't.

18 Q. Might have is a speculation. If you sit here and
 19 remember, please tell me. If you don't know, you can
 20 say you don't know.

21 A. I don't know.

22 Q. Did you read any document signed by Mr. Freed in May
 23 of 2007, to your recollection?

24 A. Yes.

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1 Q. What did you read in May?

2 A. I believe I read letters.

3 Q. Anything other than letters signed by Mr. Freed? Did
 4 you read any contracts he signed?

5 A. I don't think so.

6 Q. Were you provided at any time, to your recollection,
 7 with any contracts that Mr. Freed signed?

8 A. What's the question?

9 Q. Were you provided in May of 2007 by anyone from DOCS
 10 with any contracts that Freed signed?

11 A. I don't recall.

12 Q. You don't recall that happening?

13 A. I don't recall that happening.

14 Q. When was the first time, if ever, that you spoke
 15 directly with Roxann Creen concerning Rockland
 16 Vending?

17 A. I can't give you a date, sir.

18 Q. Okay. Do you have any records which would allow you
 19 to indicate when it was?

20 MR. SCHULZE: Were you done with your
 21 answer?

22 THE WITNESS: I beg your pardon?

23 MR. SCHULZE: Were you done with your
 24 answer?

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1 THE WITNESS: Well, no, I actually wasn't.

2 MR. SCHULZE: Please finish your answer.

3 THE WITNESS: But I know that it was prior
 4 to the conversation that I had with her on the
 5 telephone when I did advise her that she could
 6 exercise the State's right of set-off in view of
 7 the circumstances.

8 MR. SUSSMAN: Read back the answer, please.

9 THE WITNESS: I just don't know the date.

10 (The requested testimony was read back by
 11 the Court Reporter.)

12 BY MR. SUSSMAN:

13 Q. How many conversations that you can remember did you
 14 have with Ms. Creen before she took the money from the
 15 Rockland Vending machines on May 9th?

16 A. I don't have a specific recollection of how many
 17 conversations.

18 Q. Do you know if it was more than two?

19 A. I believe it was.

20 Q. And this is directly with Ms. Creen?

21 A. Yes.

22 Q. Was anyone else party to any of those conversations?

23 A. Not that I'm aware of.

24 Q. Did you ever speak with Ms. Ferri concerning --

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1 A. Nan Ferri?

2 Q. Nan Ferri.

3 A. Yes.

4 Q. Did you speak with her concerning Ms. Creen's proposal
 5 to take money from the vending machine?

6 A. Well, no.

7 Q. Did you ever speak --

8 A. But the reason is, it wasn't her proposal.

9 Q. Whose proposal was it?

10 A. It was my proposal.

11 Q. You are the one that came up with the idea?

12 A. Yes.

13 Q. When did you come up with the idea?

14 A. At some point in my conversations with Roxann Creen
 15 and Nan Ferri.

16 Q. Do you have a recollection of Nan Ferri and Stew
 17 Kidder calling you on any occasion?

18 A. Yes, I do.

19 Q. And do you recall them calling you and asking you
 20 whether Ms. Creen could take the money from the
 21 vending machine?

22 A. I don't have a specific recollection of that.

23 Q. Let's go --

24 A. But I do know that I discussed set-off with Nan Ferri.

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1 Q. Hold on. Let's go back. Tell us, even if you don't
 2 remember the dates, to your best current recollection,
 3 the sequence of contacts you had telephonically, the
 4 ones you can remember, obviously --
 5 A. Okay.
 6 Q. -- with regards to this issue, starting from the
 7 beginning.
 8 A. It's going to be --
 9 MR. SCHULZE: Objection.
 10 A. -- general.
 11 Q. Well, tell us the best you can.
 12 A. And it might not be in the exact chronological order.
 13 Q. The best you can.
 14 A. But I'm very sure of the substance of the
 15 conversations I had.
 16 Q. Well, let's start with the first one you remember, who
 17 it was with, what was said.
 18 A. I believe I got a call from Nan Ferri and that she was
 19 concerned about the stocking of vending machines by
 20 Rockland that didn't conform to the, I'm going to call
 21 it, the deposit or the bottle law.
 22 MR. SCHULZE: Just for the record here.
 23 MR. SUSSMAN: You should not be interrupting
 24 Mr. Schulze. He's giving an answer.

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1 MR. SCHULZE: Do you want to excuse him for
 2 a minute?
 3 MR. SUSSMAN: He's in the middle of an
 4 answer. I don't know what you possibly could be
 5 doing to interrupt in the middle of an answer.
 6 MR. SCHULZE: Do you want to excuse the
 7 witness or not? Yes or no?
 8 MR. SUSSMAN: I think we better call the
 9 judge, because you are not going to be able to do
 10 this. This is not appropriate. Let's just call
 11 the judge and get an order from the judge.
 12 MR. SCHULZE: No. Then I'm going to make my
 13 statement.
 14 MR. SUSSMAN: You are not going to make a
 15 statement.
 16 MR. SCHULZE: I'm going to make a statement.
 17 MR. SUSSMAN: No, I'm going to call the
 18 judge before you make a statement. I don't think
 19 you are allowed to make a statement during the
 20 middle of an answer. I'm sorry.
 21 MR. SCHULZE: You don't even know what I am
 22 going to say.
 23 MR. SUSSMAN: You are not allowed to
 24 interrupt during a witness' state- -- testimony.

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1 MR. SCHULZE: For the record, we are
 2 asserting an advice of counsel defense in this
 3 case. I'm going to allow Mr. Glassanos to give
 4 this testimony as long as Mr. Sussman does not
 5 contend that this testimony itself expands the
 6 scope of waiver. Now, do you have any problem
 7 with that?
 8 MR. SUSSMAN: Yes, I do. No statements --
 9 I'm not going to discuss anything. I'm asking
 10 him a question, okay. The question is on the
 11 table, he's giving his answer.
 12 MR. SCHULZE: I'm going to direct him not to
 13 answer unless you agree to that.
 14 MR. SUSSMAN: Agree to what?
 15 MR. SCHULZE: I'm saying, if you agree that
 16 the answer itself does not expand the scope of
 17 waiver, I'm going to allow it so we can get in
 18 and out of here faster.
 19 MR. SUSSMAN: I don't know what you mean by
 20 "expand the scope of waiver". Would you like to
 21 explain?
 22 MR. SCHULZE: Would you like to excuse the
 23 witness?
 24 MR. SUSSMAN: Go ahead, sir, go outside.

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1 THE WITNESS: Okay.
 2 MR. SUSSMAN: Mr. Freed, go outside also.
 3 Put this on the record, though, whatever is said.
 4 Go ahead.
 5 MR. SCHULZE: The only thing I'm getting at
 6 here is the scope of subject matter waiver is
 7 vague, the opinions about it are vague. What I
 8 am saying is, I'm going to allow you to inquire
 9 into things like these prior conversations with
 10 Nan, as long as you don't later contend, then, we
 11 have waived privilege in another area.
 12 MR. SUSSMAN: That's fine. I'm only
 13 inquiring as to this area, his contacts with
 14 Rockland Vending.
 15 MR. SCHULZE: That's fine. That's fine,
 16 then.
 17 BY MR. SUSSMAN:
 18 Q. Sir, at a deference to you, what we're going to do is
 19 we're going to have the last question where I asked
 20 you about telling me the chronology of your
 21 contacts --
 22 A. Okay.
 23 Q. -- I'm going to have that question reread, and I'm
 24 going to have what you said so far reread.

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1 A. Okay.
 2 Q. And then you can pick up, sir, at that point and give
 3 me the rest of your answer to the best of your
 4 ability.
 5 A. Okay.
 6 (The requested testimony was read back by
 7 the Court Reporter.)
 8 Q. Pick up from that. Did you hear that?
 9 A. Yes, yes.
 10 Q. Go ahead, sir.
 11 A. Well, I believe I got a call from Nan Ferri, and I
 12 believe that she was concerned with -- one of the
 13 facilities was reporting that the Rockland Vending
 14 Company representative must be stocking products that
 15 don't conform to the New York State Bottle Law because
 16 people who are purchasing from the machine are getting
 17 these cans and bottles, whatever they are, without
 18 that type of labeling.
 19 Q. Okay.
 20 A. And there was a concern about that.
 21 Q. When was that? What month?
 22 A. I don't know.
 23 Q. Do you have any way of knowing?
 24 A. The only way that I can place it is that it all

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George Glassanos

1 Q. What was the upshot of that conversation?
 2 A. There were probably at least four or five return calls
 3 from the DEC representative, whose name I don't
 4 recall, and probably three or four from me. And it
 5 was all concentrated on establishing some type of an
 6 intercept. When Rockland was in the process of
 7 delivering, the DEC, Department of Environmental
 8 Conservation, wanted to surveil the products that were
 9 being loaded into the machines.
 10 Q. Did you arrange that?
 11 A. No.
 12 Q. Why not?
 13 A. I tried to.
 14 Q. Who did you try to arrange it with?
 15 A. The DEC representative that I spoke with.
 16 Q. Did you try to arrange it at any of the facilities?
 17 A. Well, that was the logical place for that to occur,
 18 that's what the DEC representative wanted to know,
 19 what are your delivery dates and where.
 20 Q. Did you ascertain that?
 21 A. Not really because he said I will get back to you.
 22 Q. So the upshot of it was he'd get back to you?
 23 A. Kind of.
 24 Q. What's the next contact you had regarding Rockland

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1 predates the discussion of Rockland's omission to pay
 2 commissions when due.
 3 Q. What's the next conversation you remember? Did you
 4 give any -- strike that.
 5 Did you give any advice with regard to the bottle
 6 law issue?
 7 A. No.
 8 Q. What was the next conversation you remember about
 9 Rockland with some other employee at DOCS, whether at
 10 a facility or the central office?
 11 A. You are changing your question. You don't want me to
 12 go chronologically?
 13 Q. I'm asking you: What's the next? That means
 14 chronologically.
 15 A. Well, it wasn't with an employee or a facility or
 16 anyone.
 17 Q. Who was it with?
 18 A. A representative from the Department of Environmental
 19 Conservation, which is the agency within State
 20 government that enforces that law, at least one of
 21 them.
 22 Q. You had a conversation with them, do you know what
 23 month that was?
 24 A. No, I don't.

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George Glassanos

1 Vending?
 2 A. I think Nan Ferri at some point after that mentioned,
 3 oh, and by the way, a lot of the facilities that
 4 Rockland has contracts with are reporting that they're
 5 not receiving the commissions that they were promised
 6 under the contract. And it didn't seem to be like a
 7 trifling matter; it seemed to be substantial, as far
 8 as dollar amounts, and it seemed to be substantial, as
 9 far as the longevity of the failure to pay
 10 commissions.
 11 Q. Well, apart from what is seemed to be, what did she
 12 say, to your best current recollection?
 13 A. That's exactly what she said in sum and substance.
 14 Those were the subjects. It's not sporadic, and it's
 15 not insubstantial, and it's widespread.
 16 Q. Did she ask you for assistance?
 17 A. She, I'm quite sure, asked, what can we do.
 18 Q. You have a distinct memory of this?
 19 A. I do.
 20 Q. And these are in phone calls?
 21 A. Yes.
 22 Q. How many such calls did you have concerning the
 23 general issue of Rockland Vending omitting to pay
 24 timely commissions to a number of facilities?

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1 A. From start till today?
 2 Q. No, at that point, how many conversations did you and
 3 Ferri have?
 4 MR. SCHULZE: Objection.
 5 A. At what point is tough. If you give me, like, a
 6 period of time.
 7 Q. Well, when did they start? What month did the
 8 conversations start?
 9 A. I don't know, sir. All I know is that it preceded my
 10 giving specific advice to Roxann Creen that you were
 11 well within your rights to have the driver count out
 12 the money that was in the change box, sit down with
 13 him or her, give a receipt, tell the person that you
 14 are going to credit Rockland's account and get a
 15 signature on it, and that if the person didn't feel
 16 comfortable about doing that, let the person know that
 17 they would not be allowed to restock the machine, but
 18 they had to leave.
 19 Q. What was the time frame, was it weeks or months,
 20 between when you first talked to Nan Ferri about
 21 Rockland not making payments and when you spoke to
 22 Ms. Creen?
 23 A. I would say not more than a month. Maybe -- I don't
 24 know -- four to six weeks. That's a tough guess, I'm

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1 I received calls from the facility where Roxann was
 2 employed.
 3 Q. What facility is that?
 4 A. I think that's Shawangunk. I'm not positive.
 5 Q. Who called you from Shawangunk?
 6 A. Oh, I think Roxann.
 7 Q. And who called you from Fishkill in that period?
 8 A. I don't know. I don't know the person's name.
 9 Q. Is it a man or woman?
 10 A. Don't know that either, and I may have also had a
 11 conversation with someone in one of our New York
 12 facilities. And I know that I tried to make a phone
 13 call to an organization in New York who I was told,
 14 kind of through the grapevine, was having a similar
 15 type of a situation with Rockland.
 16 Q. That's not a DOCS facility?
 17 A. No.
 18 Q. Okay.
 19 A. I think it was a City -- it was the City of New York
 20 or a school district in New York. They also, I think,
 21 had terminated Rockland for failure to pay
 22 commissions, and I think --
 23 MR. SUSSMAN: Move to strike. It's not
 24 responsive to the question.

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1 MR. SCHULZE: Go ahead and finish your
 2 answer.
 3 A. -- was barred from doing business.
 4 Q. That's not a DOCS facility; is that right?
 5 A. No, it's not.
 6 Q. Are you hearing my questions?
 7 A. I am.
 8 Q. You are, okay, very good.
 9 MR. SCHULZE: Objection, harassing the
 10 witness.
 11 Q. Now, with regard to Ms. Creen, when is the first time
 12 Ms. Creen talked to you about Mr. Freed and his
 13 company?
 14 A. I don't know the dates, sir.
 15 Q. Was it before the call from Ms. Ferri?
 16 A. No, it was after. Nann's call was about the bottle
 17 law.
 18 Q. And then you said after that there was a call from Nan
 19 about the general issue, by the way, there's a general
 20 problem?
 21 A. Yeah. And it might have been my call to her. I don't
 22 really know. There's a lot of back and forth.
 23 Q. So there was a lot of back and forth about this before
 24 the --

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1 A. Multiple calls per day. Sometimes days would go by
 2 and there wouldn't be any, any phone call.
 3 Q. Okay.
 4 A. It wasn't just like a one time event. It was, we have
 5 a situation, we don't know exactly what to do, we're
 6 trying to do a -- take a reasonable course, and they
 7 want to be in contact with me throughout.
 8 Q. Take a look at Exhibit 1, please.
 9 A. Yes.
 10 Q. Are you familiar with that e-mail?
 11 A. There are a few of them.
 12 Q. Are you familiar with all of them?
 13 A. Yes.
 14 Q. Had you had conversations with Ms. Creen before
 15 May 8th of 2007 about Rockland Vending?
 16 A. Why do you ask about May 8th? This looks like it's a
 17 May 9 --
 18 Q. Did you have conversations before May 8th with
 19 Ms. Creen about Rockland Vending?
 20 A. I'm quite sure, provided that it's a fact that this is
 21 a May 9th document, and I'm not sure that it is. I
 22 can't tell if this -- the date this was printed or the
 23 date it was transmitted.
 24 Q. When did Ms. Creen take the funds from Rockland

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1 Vending, do you know?
 2 A. No.
 3 Q. Before she took the funds from Rockland Vending, how
 4 many days or weeks had you been in touch with her
 5 about her concerns about Rockland Vending?
 6 MR. SCHULZE: Objection.
 7 A. Four weeks, minimum.
 8 Q. And about how many conversations had you had with
 9 Ms. Creen during those four weeks?
 10 A. Somewhere between 8 and 17, 8 and 20.
 11 Q. How many conversations had you had in that period of
 12 time with Ms. Ferri regarding the same issues,
 13 Rockland Vending?
 14 A. Many.
 15 Q. Same number, roughly?
 16 A. No. Sometimes as many as four a day. Probably 20 to
 17 30.
 18 Q. What about Mr. Kidder?
 19 A. I don't believe I spoke to Mr. Kidder more than once
 20 or twice.
 21 Q. When was that in the sequence of events?
 22 A. It would have been somewhere between what I described
 23 as the four to six week period.
 24 Q. What was your conversation with Mr. Kidder as you

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1 recall it?
 2 A. I think he was actually sharing the phone with Nan
 3 Ferri and I was speaking to Nan and Stew -- either Nan
 4 wanted Stew Kidder to participate, because I think she
 5 reports to him --
 6 Q. What was the substance of the conversation?
 7 MR. SCHULZE: You need to let him finish his
 8 answers.
 9 Q. What was the substance of the conversation?
 10 MR. SCHULZE: Please finish your answer, and
 11 then you can ask a question.
 12 MR. SUSSMAN: That was the initial question.
 13 A. I think my conversation was with Nan, but she wanted
 14 Stew to hear so that he would know firsthand from the
 15 Legal Division what we were proposing to do, how we
 16 were trying to handle this.
 17 Q. What was the substance of your conversation with him?
 18 A. It was with Nan Ferri, and it was about self-help.
 19 Q. What was said?
 20 A. I think, I'm quite sure, that I told Nan that it's
 21 certainly possible that when the Rockland
 22 representative comes to restock the machine, in view
 23 of the amount of commissions that haven't been paid,
 24 that maybe we'll sit down with the Rockland

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1 representative, count out the change on a table, our
 2 representative and Rockland's representative would
 3 agree on the amount, the Rockland representative would
 4 be given a receipt to take back to his or her employer
 5 and he or she would be told that Rockland's account
 6 would be credited with the amount of money that the
 7 corrections official kept, and that that money would
 8 be deposited either in the State's General Fund, or
 9 wherever you deposit commission payments.
 10 Q. And that proposal came from you?
 11 A. That came from me.
 12 Q. Not from the facility?
 13 A. No.
 14 Q. And that came from you in response to complaints from
 15 both Nan and the facility that Rockland was not
 16 paying?
 17 A. Yes. It was one of the things that was considered.
 18 Q. Did you ever put this proposal in writing?
 19 A. I don't recall.
 20 Q. Did you ever put the proposal in an e-mail?
 21 A. I don't recall. I took the e-mail to be in writing,
 22 one in the same.
 23 Q. All right.
 24 A. I would guess that I did. I don't know how I could

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1 have talked about it without it, but I don't have a
 2 specific recollection.
 3 Q. You've mentioned the words "set-off"?
 4 A. Yes.
 5 Q. What does "set-off" mean?
 6 A. Set-off is described in the document you showed me.
 7 Q. Where is it described there?
 8 A. Paragraph 9.
 9 MR. SCHULZE: The witness is referring to
 10 Creen Exhibit 1.
 11 Q. Can you find what you are referring to.
 12 A. There's a document entitled Appendix A that's attached
 13 to exhibit --
 14 Q. Do you have it? Did you find it?
 15 A. Yeah.
 16 Q. Okay.
 17 A. It's entitled, "Set-Off Rights". But this was
 18 actually the second basis for the actions that were
 19 taken. The first was just a common law notion of
 20 self-help.
 21 Q. What's that?
 22 A. Self-help.
 23 Q. What is the common law notion of self-help, sir?
 24 A. As I understand it, it's kind of calm, low level

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1 assertion of your legal rights while maintaining the
 2 public peace.

3 Q. And what basis do you have for that statement?

4 MR. SCHULZE: Objection.

5 A. Common law, notion of self-help.

6 Q. Have you ever employed self-help yourself?

7 MR. SCHULZE: Objection.

8 A. I think that I have.

9 Q. Have you ever advised the Department to employ
 10 self-help previously?

11 A. I think I have advised the representatives in the
 12 Department many, many times over the years that
 13 self-help is an alternative, mostly in low level types
 14 of transaction.

15 Q. Can you remember any other examples?

16 MR. SCHULZE: Objection. I'm going to have
 17 to instruct him not to answer that.

18 MR. SUSSMAN: All I asked him is can he
 19 remember any other examples. I haven't asked him
 20 for the examples.

21 MR. SCHULZE: You can answer yes or no.

22 A. Yeah, I do.

23 Q. You do?

24 A. I don't remember specifics, but I remember generally.

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1 party to screen inmates for necessary medical health,
 2 and the Department has an obligation under this
 3 particular contract to pay a stated sum at the
 4 beginning of each and every month for the period of
 5 the contract.

6 Q. Who has that obligation --

7 A. The State.

8 Q. -- the State?

9 A. It became apparent to the people who were the contract
 10 administrators for this service that the managed care
 11 entity, the CMS --

12 Q. CMS?

13 A. -- entity wasn't paying the bills that were being
 14 submitted by the health care providers with the money
 15 that we gave them at the beginning of each month. So
 16 we exercised self-help by stopping the payments that
 17 would be automatically transmitted on the first of
 18 every month, until we got an accounting from the
 19 provider, the managed care provider and until we had
 20 some type of, kind of, a confirming statement from the
 21 physicians and hospitals which provided the care, but
 22 which weren't getting paid.

23 Q. Did you provide notice to CMS before you did?

24 A. Yes.

George Glassanos

1 Q. And do they involve third parties, like Rockland
 2 Vending Company?

3 A. Yeah, almost always vendor.

4 Q. So there's a pattern in history of the Department, to
 5 your knowledge, of employing self-help with vendors?

6 MR. SCHULZE: Objection.

7 A. No.

8 Q. To your knowledge?

9 A. No.

10 Q. Has self-help ever been employed, to your knowledge,
 11 as a factual matter in the Department before?

12 A. Yes.

13 Q. When?

14 A. Somewhere between 1997 and maybe 2000.

15 Q. And who are the parties?

16 A. There were probably two or three parties. One was
 17 probably CMS, I think it's Correctional Medical
 18 Services. I think another one is PHS, Prison Health
 19 Services. And there was a third, but I don't recall
 20 the name.

21 Q. What was the self-help employed with respect to CMS?

22 A. The state had a contract with this CMS company.
 23 Generally, it was for the provision of what they
 24 called managed care. The State contracts with a third

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1 Q. What was the form of your notice?

2 A. I think we had conversations. I'm not positive
 3 because it was a higher level type of transaction.

4 Q. So you provided, someone provided some notice to CMS
 5 to what effect?

6 A. That we were aware from all of the parties that were
 7 complaining that they weren't being paid that
 8 something seemed to be seriously wrong.

9 Q. Did you provide notice the checks were going to be
 10 stopped?

11 A. We discussed it.

12 Q. With CMS representatives?

13 A. Yeah, yeah. We wanted to work out some type of a
 14 solution.

15 Q. And you weren't able to, and then you stopped the
 16 checks?

17 A. I actually don't know how it all ended.

18 Q. Do you know if the checks were ever stopped?

19 A. I know that we stopped making these payments.

20 Q. And does that fall squarely within the language of 9,
 21 Set-Off Rights?

22 MR. SCHULZE: Objection. Go ahead.

23 A. I don't know, we were following the lead that the
 24 State Comptroller provided.

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1 Q. Okay.
 2 A. Because it was very, very concerned. We're not
 3 talking about a few thousand dollars; we're talking
 4 quite a bit more.
 5 Q. PHS, what was the circumstances, to your knowledge, if
 6 you have knowledge, with regard to PHS?
 7 A. I think it was the same, the same. And probably
 8 exactly the same with the third company whose name I
 9 just don't recall. But the State is regionalized as
 10 far as the delivery of health care services, and every
 11 region would advertise for the service and make an
 12 award, just as we regionalize for lots of services and
 13 goods.
 14 Q. If you would look at -- you've mentioned Paragraph 9
 15 of Appendix A, so would you take a look at that,
 16 please.
 17 A. Okay. I have it.
 18 Q. It says, "The State shall have all of its common law
 19 equitable and statutory rights of set-off." Do you
 20 see that?
 21 A. Yes, I do.
 22 Q. And do you know what set-off means in that context?
 23 MR. SCHULZE: Objection.
 24 A. Just in that one sentence --

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1 Q. You don't know who owned them?
 2 A. I don't know if they were leased or owned.
 3 Q. Were they the State's vending machines?
 4 A. I do not believe so.
 5 Q. Did anyone represent to you that the State had any
 6 proprietary right to the vending machines?
 7 MR. SCHULZE: Objection.
 8 A. No.
 9 Q. And there was money in the vending machines; is that
 10 right?
 11 MR. SCHULZE: Objection.
 12 A. I don't know.
 13 Q. Well, it was represented to you --
 14 A. I was told.
 15 Q. -- that there was money in the vending machines;
 16 right?
 17 A. That's correct.
 18 Q. Whose money was that?
 19 MR. SCHULZE: Objection.
 20 Q. You can answer.
 21 A. That's the question.
 22 Q. Whose money was it?
 23 MR. SCHULZE: Objection.
 24 A. A lot of it, probably most of it or all of it,

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1 Q. That sentence.
 2 A. -- not knowing anything more, no, I couldn't tell you.
 3 I couldn't guess -- I mean, I could guess --
 4 Q. Let me ask you this.
 5 A. But the first sentence doesn't disclose everything.
 6 Q. Well, let me ask you this: The notion of a set-off,
 7 does that mean, if you know, that you have a just debt
 8 to me, I owe you something and because you have a just
 9 debt to me, I subtract from what I'm going to give to
 10 you whatever you owe me?
 11 A. Mm-hmm.
 12 Q. Is that set-off to your understanding?
 13 A. Sounds right.
 14 Q. It says, "These rights shall include, but not be
 15 limited to, the State's option to withhold for the
 16 purposes of set-off, any monies due to the contract or
 17 under this contract up to any amounts due and owing to
 18 the State with regard to this contract." Do you see
 19 that?
 20 A. Yes.
 21 Q. And the vending machines in question here, were those
 22 Rockland vending machines? Did they own the vending
 23 machines?
 24 A. I don't know.

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George Glassanos

1 probably ten times over, was owed to the State of New
 2 York.
 3 Q. It may have been owed to other people; right?
 4 MR. SCHULZE: Objection.
 5 MR. SUSSMAN: Excuse me.
 6 A. No.
 7 Q. Let's say Rockland Vending was doing a business and
 8 they got money from vending machines and they owed a
 9 supplier or they owed an accountant or they owed any
 10 one of a number of people, don't they have a right to
 11 that money as well?
 12 MR. SCHULZE: Objection.
 13 Q. You can answer.
 14 A. They have a right to be paid according to their
 15 contract with your client just as the State does.
 16 Q. Does the State have a --
 17 A. I can't say that that particular money can be
 18 identified to Mr. Freed's contract with National Grid.
 19 Q. Does the State have a superior right to that money
 20 than any of the people I just referenced?
 21 MR. SCHULZE: Objection.
 22 A. I would probably guess yes.
 23 Q. Why?
 24 A. Because we're in possession.

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George Glassanos

1 they could take monies out of a machine which was the
 2 sole -- solely owned by that company?
 3 A. I misunderstood your question. I thought you were
 4 talking about contracts in general.
 5 Q. Not contracts in general.
 6 A. No, I believe that this particular facility was the
 7 first. Others seemed to be interested once they found
 8 out.
 9 Q. You had conversations with other facilities about what
 10 happened at Shawangunk?
 11 A. Yes.
 12 Q. And you told them about what had happened at
 13 Shawangunk?
 14 A. Yes.
 15 Q. And you advised that they follow the same course?
 16 A. No, I didn't.
 17 Q. Why not?
 18 A. We never got to that stage.
 19 Q. Didn't you advise Ms. Ferri to recommend to other
 20 facilities to follow the same course?
 21 A. No, I did not.
 22 Q. You never did that?
 23 A. No.
 24 Each facility has a different situation, and each

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1 one would have to be looked at. The key factors that
 2 I was considering were the amount of the arrearages
 3 and commissions, the longevity of the history of
 4 nonpayment and to try and get a feel for whether the
 5 Rockland people were willing to bring their accounts
 6 current or whether they were just so financially
 7 strapped that there was no possible way they could do
 8 it -- it could do it.
 9 Q. What factual information did you have on any of those
 10 points?
 11 MR. SCHULZE: Objection.
 12 A. As far as the longevity of the problem and the amount
 13 of the arrearage?
 14 Q. Yes.
 15 A. Just what I was told.
 16 Q. What were you told?
 17 A. I don't recall, but I do remember suggesting to Nan
 18 Ferri that she solicit from the business offices of
 19 all effected institutions a status report so that we
 20 would have a handle on how widespread the problem was,
 21 how long it had been going on and to try and get a fix
 22 on how much money totally is owed to the State.
 23 Q. And after you suggested that, did you get a report
 24 back from Ms. Ferri with that information?

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1 A. I believe Nan got it.
 2 Q. Did you get it, was the question.
 3 A. I think I got a summary or I got the entire thing in
 4 the form of an e-mail. I'm not positive.
 5 Q. What was the content of whatever you got back?
 6 A. My recollection is that there were probably a dozen or
 7 so facilities that had contracts with the Rockland
 8 Vending Company and that it seemed like at least
 9 seven, eight or nine had difficulties in receiving
 10 commission payments and that the total, total might
 11 have been as high as about \$22,000, and it might have
 12 gone on for almost a year at some facilities, just a
 13 couple of months with other facilities. It was a
 14 whole range.
 15 Q. And this you got all from Nan Ferri?
 16 A. I believe so.
 17 Q. In an e-mail?
 18 A. It could have been over a telephone and in e-mail, but
 19 I have seen the summary.
 20 Q. Look at Exhibit 11.
 21 A. Yes.
 22 Q. Is that the document that, to your knowledge, was
 23 generated from your suggestion?
 24 MR. SCHULZE: Objection.

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1 A. No.
 2 Q. You just testified, sir, that you made a suggestion to
 3 Nan Ferri that she survey all the facilities to
 4 determine their status with regard to the vending
 5 machine contract. Do you remember saying that?
 6 A. Yes.
 7 Q. And is this document the document which makes that
 8 request of all the facilities on March 7th?
 9 MR. SCHULZE: Objection.
 10 A. Yes.
 11 Q. And was this done at your direction?
 12 MR. SCHULZE: Objection.
 13 A. Yes.
 14 Q. Thank you.
 15 So as of March 7th, 2007, you were involved with
 16 this situation; is that correct?
 17 MR. SCHULZE: Objection.
 18 A. That would be, because I remember asking Nan, this is
 19 what you need to do to get a grip on what's going on.
 20 Q. And after this, you saw some sort of summarization,
 21 before you rendered your legal advice, you saw some
 22 sort of summarization prepared by Ms. Ferri
 23 aggregating the issues from the various facilities?
 24 A. Yes.

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1 Q. And that was in writing?
 2 A. I believe it was in the form of an e-mail.
 3 MR. SUSSMAN: (REQUEST) Please produce that,
 4 Counsel.
 5 MR. SCHULZE: I don't know what we're
 6 talking about yet. I think there's some
 7 confusion.
 8 MR. SUSSMAN: We have a witness who is
 9 testifying under oath. I've asked you to please
 10 produce the document he's referring to, sir.
 11 MR. SCHULZE: Do you want to excuse the
 12 witness?
 13 MR. SUSSMAN: No, I do not want to excuse
 14 the witness.
 15 MR. SCHULZE: I'll take it under
 16 advisement --
 17 MR. SUSSMAN: Thank you.
 18 MR. SCHULZE: -- but I think there's some
 19 confusion.
 20 Q. Look at Exhibit 18, please.
 21 A. (Witness complies.)
 22 Q. There's an e-mail at the bottom, you can read both,
 23 but I'm going to ask you about the one at the bottom.
 24 A. Okay. (Witness complies.)

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1 Okay.
 2 Q. Did you write that e-mail at the bottom?
 3 A. Yes.
 4 Q. And that was your advice?
 5 A. It's what I wrote.
 6 Q. Was that implemented?
 7 A. What do you mean when you say, was it implemented?
 8 Q. Here, let me read a part, I'll ask you a question more
 9 directly, sir.
 10 A. All right.
 11 Q. "If two or more facilities deal with Rockland and
 12 Rockland is current with some but in breach with
 13 others, the one who are paid in full may still deduct
 14 what is owed to the other or others as was done this
 15 morning at Roxann's facility." Was that implemented?
 16 A. I don't believe that it was.
 17 Q. Do you know why it wasn't?
 18 A. No.
 19 Q. Why did you give that advice?
 20 A. Because I believe it to be true.
 21 Q. Were you asked for it by anyone?
 22 A. I'm trying to develop the full breadth of what I
 23 consider to be the State's right of self-help under
 24 the common law and also under a provision of the

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1 contract.
 2 Q. Okay.
 3 A. I think I even went so far as to say that if a vendor
 4 had a contract with a sister agency, the provisions in
 5 Appendix A would even allow that sister agency to
 6 assist a sister agency in deducting --
 7 Q. I think you did say that, that's another e-mail.
 8 Ms. Creen testified as follows under oath: "Had
 9 you conversed with Mr. Glassanos about Rockland
 10 Vending before either the Monday or Tuesday in
 11 question, which would be the 7th or 8th of May?
 12 Answer: "No, that would have been a weekend."
 13 You told us earlier that you think you had 8 to
 14 13 conversations with this woman before the self-help
 15 was executed. Do you still believe that?
 16 MR. SCHULZE: Objection.
 17 A. I do.
 18 Q. You said that you originated the idea of the
 19 self-help. Ms. Creen said the following under oath at
 20 her deposition, which was held on November 15th, in
 21 reference to the contact she had with you on May 8th:
 22 "What did you say?"
 23 "I explained to him what we had thought about
 24 doing with Rockland Vending and wanted to see if it

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1 was an okay thing to do or not."
 2 Do you recall that conversation?
 3 MR. SCHULZE: Objection.
 4 A. I don't have a specific recollection of it, but it
 5 sounds like something that might have been said.
 6 Q. It might have been said that she called you and asked
 7 you whether she could take the money out of the
 8 machines, not that you initiated the idea?
 9 MR. SCHULZE: Objection.
 10 A. I'm not sure about that.
 11 Q. You were pretty sure a few minutes ago that it was
 12 your idea, so do you remember saying that?
 13 MR. SCHULZE: Objection, harassing the
 14 witness.
 15 MR. SUSSMAN: It's not harassing.
 16 Q. Yes, go ahead.
 17 MR. SCHULZE: Objection, harassing the
 18 witness.
 19 A. I believe it was my idea.
 20 Q. Do you know if it was your idea, sitting here today?
 21 MR. SCHULZE: Objection.
 22 A. I believe it was.
 23 Q. Do you know? You are under oath. Do you know if it
 24 was? I am not asking you about what you believe.

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1 MR. SCHULZE: Objection, harassing the
2 witness. Don't bother answering.

3 Q. I'm not asking about what you believe. I'm asking
4 about what you know.

5 Do you know if it was your idea?

6 MR. SCHULZE: Objection, asked and answered.

7 Harassing the witness.

8 A. I can't tell what was in Roxann's mind.

9 Q. I'm asking about expression between the two of you,
10 not what was in her mind.

11 She said she called and asked you whether it was
12 okay to do that, that it was her idea, she called and
13 asked you if it was okay; is that what happened?

14 MR. SCHULZE: Objection, asked and answered,
15 harassing the witness, assuming facts not in
16 evidence.

17 MR. SUSSMAN: What are you talking about?

18 Q. Please answer the question.

19 A. I believe I advised her it was within the State's
20 right to exercise self-help, and that, in addition,
21 that there was a provision in the contract, and I'm
22 specifically referring to the set-off paragraph in
23 Appendix A, that also buttressed that type of an
24 action.

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1 MR. SCHULZE: Objection.

2 A. No, I don't.

3 Q. You do not?

4 MR. SCHULZE: Asked and answered, harassing
5 the witness and grossly improper, Counsel.

6 Q. Have you consulted with any other attorney with regard
7 to your interpretation of Paragraph 9?

8 MR. SCHULZE: You can answer yes or no.

9 THE WITNESS: I have to take that. It's for
10 my wife.

11 MR. SUSSMAN: Go right ahead.

12 (A break was taken in the proceedings.)

13 BY MR. SUSSMAN:

14 Q. You said you had conferred or had not conferred with
15 any other attorney concerning that interpretation of
16 the paragraph?

17 A. I actually answered that yes.

18 Q. You had conferred?

19 A. Yes.

20 Q. And before you gave the advice or after?

21 A. No. After.

22 Q. Now, just so we go back to a document that we went
23 over earlier, this document, it's actually Defendant's
24 0001, I think it was previously shown to you as

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1 Q. The self-help provision in Appendix A, Counsel, has
2 nothing to do with it, does it?

3 MR. SCHULZE: Objection.

4 A. The what? The self-help provision --

5 Q. You are an attorney; right?

6 A. The self-help provision is the common law. The
7 set-off is the contractual provision.

8 Q. Set-off has nothing to do with this problem, does it?

9 MR. SCHULZE: Objection.

10 MR. SUSSMAN: Your objection is noted.

11 MR. SCHULZE: That directly contradicts his
12 earlier testimony.

13 MR. SUSSMAN: I'm allowed to press a witness
14 at a deposition, Mr. Schulze. I don't know what
15 depositions you have ever been in.

16 MR. SCHULZE: He answers the question, you
17 ask him again and you ask him to give him the
18 opposite answer.

19 MR. SUSSMAN: I'm allowed to ask him
20 whether, as an attorney, he acknowledges sitting
21 here today that Paragraph 9, which has to do with
22 set-off, has absolutely nothing to do with this
23 situation.

24 Q. Do you acknowledge that or not?

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1 Exhibit 11. Did you see that document -- here's
2 Exhibit 11 (proffering) -- did you see that document
3 before it went out?

4 A. I don't know for certain.

5 Q. Is it familiar to you?

6 A. The content is familiar with me because it sounds like
7 something I would have told Nan to do.

8 Q. And did you write it; or do you not know if you wrote
9 it?

10 A. No, I didn't write it.

11 Q. You didn't write it?

12 A. But I think I probably, over the telephone, listed the
13 things that she has written here.

14 Q. The e-mail report that you testified to earlier that
15 you saw back summarizing the results of this
16 inquiry --

17 A. (Witness nods.)

18 Q. -- did you have that in your possession before you
19 gave the advice regarding self-help?

20 A. I don't recall.

21 Q. You don't know when you got it?

22 A. No, I don't.

23 Q. Do you know who you got it from?

24 A. I believe I got it from Nan Ferri.

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George Glassanos

1 Q. At any time, sir, did you advise Ms. Creen to notify
2 Mr. Freed or his company that you intended to employ
3 self-help?

4 MR. SCHULZE: Objection.

5 A. I don't believe so.

6 Q. Did you ever advise Mr. Kidder or Ms. Ferri to so
7 advise Ms. Creen, that notice should be provided to
8 the company that the State intended to do whatever it
9 did?

10 A. Yes.

11 Q. What did you say with regard to that?

12 A. Upon the arrival of the representative for what was
13 described to me as a routine restocking trip, that's
14 when I suggested that she disclose to the driver what
15 our intentions were. And if he agreed, let's just go
16 do it, take an accounting, exchange receipts --

17 Q. And if he didn't agree?

18 A. Then he would leave. He didn't have to submit to
19 that.

20 Q. And that's what you advised?

21 A. Yes.

22 Q. Do you know if that was followed, that advice?

23 A. I believe that it was.

24 Q. What's the basis for that belief?

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1 the front door at 8:00 a.m." Do you see that?

2 A. Yes.

3 Q. It says, "I escorted him to his first area of fill,
4 the inmate visit room." Do you see that?

5 A. Yes, I do.

6 Q. Do you know whether the inmate visit room is behind
7 any locked doors or gates?

8 A. I have never been to this inmate visit room, assuming
9 that this is Shawangunk, but I've been to many, many
10 others and they're certainly behind security gates.

11 Q. Do you have any knowledge as to how many security
12 gates the filler would have had to pass with Ms. Creen
13 before he got to the inmate visit room at Shawangunk?

14 A. No.

15 Q. It then goes on, quoting, "I explained to him that
16 Rockland was behind"; do you see that?

17 A. Yes, I do.

18 Q. Had you advised that that explanation be given before
19 the filler went into the facility?

20 MR. SCHULZE: Objection.

21 A. I don't think that I made my instructions that
22 precise, but what I did say was, upon arrival, inform
23 the driver that this is what we're going to do.

24 Q. What did you mean, though? What I'm asking you, sir,

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George Glassanos

1 is, what did you mean by, quote, "upon arrival", close
2 quote?

3 MR. SCHULZE: Objection.

4 A. When I use a word, it means what I intend it to mean,
5 nothing more, nothing less.

6 Q. Well, did it mean at the point --

7 A. Upon arrival, Mr. Sussman, I don't know.

8 Q. Does it mean at the point you get into the inmate
9 visit room and are behind several --

10 A. I --

11 Q. -- locked gates and doors --

12 A. I didn't --

13 Q. -- is that what it means?

14 MR. SCHULZE: Objection.

15 A. I didn't specify that. I just said upon arrival.

16 Q. Thank you.

17 MR. SCHULZE: You need to let him ask his
18 question, even if you know where he is going.
19 And objection, harassing the witness.

20 Q. Did you believe that notification to the driver when
21 he arrived at the facility and was behind several
22 locked or closed doors and gates was notice to
23 Rockland --

24 MR. SCHULZE: Objection.

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George Glassanos

1 Q. -- of the State's intent to engage in self-help?
 2 MR. SCHULZE: Objection.
 3 A. It certainly is notice. The person was supposed to be
 4 advised that he or she could leave just by indicating
 5 that he or she wanted to leave.
 6 Q. Is there any indication in Exhibit 23 that the person
 7 was notified that he or she could leave?
 8 MR. SCHULZE: Objection.
 9 Q. That's the report that was provided to you by
 10 Ms. Creen.
 11 A. Not here. But I have read something elsewhere where
 12 it seemed like everything went smoothly, that the
 13 person was not disturbed --
 14 MR. SUSSMAN: Move to strike as
 15 nonresponsive.
 16 A. -- and that they counted out the money.
 17 MR. SCHULZE: Objection. This is
 18 directly --
 19 MR. SUSSMAN: Move to strike.
 20 There's a very specific question. I am not
 21 letting him finish anything.
 22 MR. SCHULZE: You are not letting him finish
 23 his answer.
 24 MR. SUSSMAN: He's not responding to the

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George Glassanos

1 question, Counsel.
 2 MR. SCHULZE: I move to terminate the
 3 deposition.
 4 MR. SUSSMAN: He's not responding.
 5 MR. SCHULZE: I move to terminate the
 6 deposition.
 7 MR. SUSSMAN: You can move to do whatever
 8 you want to do. Do you want to --
 9 MR. SCHULZE: We're walking out unless you
 10 let him answer --
 11 MR. SUSSMAN: He's going to answer the
 12 question asked, Counsel, not the question he
 13 wants to.
 14 MR. SCHULZE: I'm instructing the witness --
 15 MR. SUSSMAN: The question -- make sure he
 16 knows the question.
 17 You can instruct whatever you like.
 18 MR. SCHULZE: I'm instructing the witness to
 19 finish what he was saying no matter what counsel
 20 on the other side is --
 21 BY MR. SUSSMAN:
 22 Q. Mr. Glassanos, you are an English speaker, you are a
 23 distinguished attorney, the question was very simple:
 24 Is there any indication in the document that I've

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George Glassanos

1 shown you, which is a report, that this gentleman was
 2 told he could leave? That's the only question.
 3 MR. SCHULZE: Objection.
 4 A. I'm going to read it.
 5 Q. Read it, please.
 6 MR. SCHULZE: Objection, harassing the
 7 witness. If you don't drop the condescending
 8 tone, we are walking out.
 9 MR. SUSSMAN: Mr. Schulze, I don't need for
 10 you to lecture me. Your objections are
 11 frivolous. No one is harassing anyone. I am
 12 asking the gentleman a specific question to which
 13 he needs to answer. That's the issue. Let's
 14 proceed.
 15 MR. SCHULZE: You think noting the --
 16 MR. SUSSMAN: You think nothing. I'm not
 17 thinking anything. I'm asking him specific
 18 questions. Let him answer.
 19 MR. SCHULZE: Do you think asking the
 20 witness whether he is an English speaker is a
 21 proper question?
 22 MR. SUSSMAN: I didn't ask him. I said, he
 23 is an English speaker, he can answer the
 24 question.

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George Glassanos

1 MR. SCHULZE: You think stating that in your
 2 question is proper?
 3 MR. SUSSMAN: I think it's proper if there's
 4 a nonresponsiveness shown, which there has been
 5 repeatedly.
 6 A. To me, it suggests that the driver knew he or she had
 7 a choice.
 8 Q. Where does it say that?
 9 A. "I told him that I would do that", and that's a
 10 reference to letting him call his company to find out
 11 what his directions were, or if they knew what we had
 12 advised the driver.
 13 Q. The driver asked to call, as you understand it,
 14 himself?
 15 MR. SCHULZE: Objection.
 16 A. Could you repeat that.
 17 Q. Did the driver, to your understanding of the event,
 18 ask to make a phone call --
 19 MR. SCHULZE: Objection.
 20 Q. -- to Rockland Vending?
 21 A. I have no way of knowing. I'm just reading the
 22 account that was given here.
 23 Q. And the account that you were given, as you understood
 24 the account, did the driver himself ask to contact

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George Glassanos

1 Rockland Vending?
 2 MR. SCHULZE: Objection.
 3 A. I can only read back what it says. The drive- -- it's
 4 pure, this is a reference to the driver, "requested
 5 that I" -- Roxann, the author of this e-mail
 6 ostensibly -- "call and let them" -- Rockland, the
 7 employer -- "know what we were doing. I told them
 8 that I would do that."
 9 Q. Was that done?
 10 A. I don't know that.
 11 Q. Were you advised at any time during the period of
 12 March 7th to May 8th or 9th that Rockland Vending
 13 contended that various product was being pilfered or
 14 stolen from its machines at Shawangunk?
 15 A. I heard that at some point.
 16 Q. Did you hear it in the period I specified?
 17 A. I would say it would have to be within that period. I
 18 don't have a specific recollection.
 19 Q. Who did you hear it from?
 20 A. I don't recall.
 21 Q. What did you hear in that regard?
 22 A. Just what you said, that Rockland was reporting that
 23 they thought their machines were being pilfered.
 24 Q. You are laughing; did you find that funny when you

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George Glassanos

1 with the State since early 2001?
 2 A. No.
 3 Q. Did you make any inquiry as to how long they had been
 4 doing business with the State?
 5 A. No.
 6 Q. And no one so advised you?
 7 A. Someone may have told me. I don't recall it. I was
 8 mostly concerned about what was going on right now.
 9 Q. Take a look, please, at Exhibit 1, particularly the
 10 directed e-mail to you, which says, starting,
 11 "Mr. Glassanos, this is to follow up..."
 12 A. Okay.
 13 Q. Does reviewing this document refresh your recollection
 14 that on May 8th you had a conversation with Stew
 15 Kidder and Nan Ferri regarding Rockland Vending?
 16 MR. SCHULZE: You shouldn't write on the
 17 exhibit.
 18 THE WITNESS: Do not write?
 19 MR. SCHULZE: If you have something you want
 20 to say about it, go ahead.
 21 THE WITNESS: This is what I was referring
 22 to (indicating).
 23 MR. SCHULZE: The sentence the witness is
 24 pointing to right now is: "He had no problem

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George Glassanos

1 heard it?
 2 MR. SCHULZE: Objection, harassing the
 3 witness.
 4 A. I didn't find it funny, but it seemed to be very
 5 consistent with all the other accounts that our
 6 business reps had had with Mr. Freed and another
 7 representative from his office.
 8 Q. Who was that?
 9 A. I don't know, but I think it was a woman, and it might
 10 have been the woman that's described there as Cheryl.
 11 Q. How long had Rockland Vending been working for the
 12 State by 2007 on these contracts?
 13 A. I have no idea.
 14 Q. Was it a year?
 15 A. I have no idea.
 16 Q. Was it more than a year?
 17 A. I have no idea.
 18 Q. Did you ever find that out?
 19 A. I have no idea.
 20 Q. You mentioned earlier that one of the things that you
 21 considered was the longevity of the issue?
 22 A. Yes.
 23 Q. So in that context, when you say you have no idea, did
 24 you know that Rockland Vending had been doing business

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George Glassanos

1 with our collection of the money."
 2 THE WITNESS: That's what I was referring to
 3 before.
 4 Now, I lost your question because I wanted
 5 to read this.
 6 BY MR. SUSSMAN:
 7 Q. Does this refresh your recollection that on 8, May,
 8 2007 you had a conversation with Stew Kidder and Nan
 9 Ferri regarding Rockland Vending?
 10 A. I believe it's true. I don't have any independent
 11 recollection that that's what happened.
 12 Q. How long was the conversation?
 13 A. I don't know.
 14 Q. Was it a minute or two?
 15 A. I don't know.
 16 Q. Was that the first conversation you had with Ms. Ferri
 17 and Mr. Kidder regarding any issue with Rockland
 18 Vending being behind on commissions?
 19 A. I don't think so.
 20 Q. Can you testify under oath whether it was or not, or
 21 don't you know?
 22 A. I don't know.
 23 Q. So it might have been?
 24 A. No, definitely couldn't have been.

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George Glassanos

1 Q. So you know it wasn't?
 2 A. I'm pretty sure it wasn't, just by the date. This is
 3 way, way into the transaction. I'm pretty sure I had
 4 conversations with those people much earlier. You've
 5 shown me a document that seems to show that this
 6 started in March of 2007, which surprised me. I
 7 thought it was closer to April or May.
 8 Q. The statement which is written here, you said
 9 something about this -- you pointed to something to
 10 your counsel here, and I'm not sure what you pointed
 11 to and why you pointed to it. This was dated May 8th,
 12 the day before the event --
 13 A. Yeah, in the one, two -- in the third full paragraph
 14 from the top, disregarding the inside addresses and
 15 all that stuff, the third line down begins with the
 16 words, "he had no problem", and I was referring to
 17 that sentence and commenting to my attorney that I
 18 think this suggests that the representative knew that
 19 he or she had a choice and could have left at any time
 20 whether they were behind one locked door or two locked
 21 doors.
 22 MR. SCHULZE: Just so the record is clear,
 23 the witness had taken my pen and was about to
 24 write on the exhibit. I told him not to write on

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George Glassanos

1 follow-up today's conversation with Stew Kidder and
 2 Nan Ferri regarding Rockland Vending." Do you see
 3 that?
 4 A. Yes, I do.
 5 Q. Was Ms. Creen part of that conversation which she's
 6 reporting about?
 7 A. It's hard to tell.
 8 Q. You don't remember?
 9 A. Not only do I not remember, but I wouldn't draw that
 10 conclusion from that statement either.
 11 Q. The question for you as a witness is: Do you remember
 12 that phone conversation?
 13 A. No.
 14 MR. SCHULZE: Objection.
 15 Q. Did you have any other information about Rockland
 16 Vending before this phone conversation than what's
 17 related in this paragraph?
 18 A. Is this document the same as the one that's in front
 19 of me?
 20 Q. That e-mail is the same.
 21 A. Okay.
 22 Q. That e-mail. I'm looking at that e-mail.
 23 MR. SCHULZE: We've got to refer to the
 24 exhibit, unless you want to mark something else.

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George Glassanos

1 the exhibit, and he pointed to that sentence, so
 2 I read it out loud for opposing counsel.
 3 Q. Focusing, sir, on the e-mail that I am asking you
 4 about, which is not the e-mail that you referred to.
 5 This first e-mail here, which says, "Mr. Glassanos",
 6 as I indicated in my first question; do you see that
 7 e-mail? That's one e-mail; do you see that, what I'm
 8 pointing to?
 9 A. Yeah. Yes, I do.
 10 Q. Okay. And with regard to that e-mail, do you have a
 11 recollection of a conversation with Ms. Ferri,
 12 Mr. Kidder and Ms. Creen and you, all four of you, in
 13 which you discussed the strategy which is related in
 14 that e-mail?
 15 A. I don't have a specific recollection of that, but I
 16 know that at some point or other, prior to the actual
 17 occurrence, I spoke with every single one of them and
 18 probably more than once. But I don't think it was
 19 just the four of us on the same phone call just once.
 20 Q. So this is an e-mail from Roxann Creen, it's to you --
 21 see the line, original author, Roxann Creen? Do you
 22 see that?
 23 A. Mm-hmm.
 24 Q. And it starts off, "Mr. Glassanos, this is to

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George Glassanos

1 Q. I'm referring to the e-mail specifically, in May of
 2 2007.
 3 A. Could you ask the question again because I am a little
 4 confused.
 5 Q. Did you have any other information about Rockland
 6 vending on May 8th or as of May 8th than is referred
 7 to in this e-mail?
 8 MR. SCHULZE: Objection.
 9 A. I must have.
 10 MR. FREED: Can I confer with you when you
 11 get a sec.
 12 MR. SUSSMAN: No, hold on.
 13 BY MR. SUSSMAN:
 14 Q. Why do you say you must have?
 15 A. Because I think I've been dealing with this subject,
 16 based on the documents you've shown me, since March of
 17 2007.
 18 Q. And you've been dealing with Ms. Ferri and Ms. Creen?
 19 A. And probably Roxann and probably people from Fishkill
 20 and the investigator from the State Police and the
 21 person from the DEC --
 22 Q. What investigator from the State Police?
 23 A. -- people from the State Comptroller's Office.
 24 Q. What investigator from the State Police?

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George Glassanos

1 A. I got a call from an Investigator Dickson (phonetic),
 2 his name was in one of these, and he wanted to know
 3 what had transpired and was I an attorney for the
 4 Department.
 5 Q. But that was after this, after May 8th; right?
 6 A. Yes. Yes, it was after the date where the driver
 7 came, they counted out the change, agreed on the
 8 amount, gave a receipt, credited the account. It
 9 followed that.
 10 Q. And Dickson called you and you were in Albany?
 11 A. Yes.
 12 Q. And did he tell you that there had been a complaint
 13 filed?
 14 A. I'm not sure if he said that.
 15 Q. Did he tell you why he was calling?
 16 A. Yes. He mentioned the situation where a
 17 representative from the State retained the money, gave
 18 a receipt, credited the account.
 19 Q. Why was he calling you?
 20 A. That's what I wanted to know.
 21 Q. Did he indicate someone was there complaining to him?
 22 A. He didn't disclose that to me. He just wanted me to
 23 say what I thought happened and was I involved.
 24 MR. SUSSMAN: You wanted to say something.

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George Glassanos

1 MR. SUSSMAN: We're done.
 2 (Whereupon, the examination of GEORGE
 3 GLASSANOS in the above-entitled matter concluded
 4 at 2:20 p.m.)
 5 *****

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George Glassanos

1 MR. FREED: Yes.
 2 MR. SUSSMAN: Excuse us.
 3 (A break was taken in the proceedings.)
 4 BY MR. SUSSMAN:
 5 Q. Do you remember whether after this event, the first
 6 event on May 10th where the -- or May 9th where the
 7 money was actually taken, do you remember advising
 8 Ms. Creen that if someone from Rockland Vending came
 9 back, to do the same thing the next day?
 10 MR. SCHULZE: Objection.
 11 A. I don't recall.
 12 Q. Do you recall if that issue came up?
 13 MR. SCHULZE: Objection.
 14 A. I don't recall.
 15 MR. SCHULZE: Can you read back that
 16 question, the first one.
 17 (The requested testimony was read back by
 18 the Court Reporter.)
 19 MR. SUSSMAN: His answer was he doesn't
 20 recall?
 21 THE WITNESS: That's correct.
 22 MR. SUSSMAN: Thanks for your attendance
 23 here today.
 24 MR. SCHULZE: We're done?

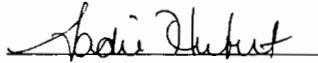
1 STATE OF NEW YORK)
 2 COUNTY OF) ss.
 3
 4 I, GEORGE GLASSANOS, have read the foregoing
 5 record of my testimony taken at the time and
 6 place noted in the heading hereof, and I do
 7 hereby acknowledge it to be a true and accurate
 8 transcript of same.
 9
 10
 11
 12 GEORGE GLASSANOS
 13
 14 DATED: _____
 15
 16 Sworn to before me this _____
 17 day of _____, 20 _____.
 18
 19 Notary Public
 20
 21
 22
 23
 24

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1 C E R T I F I C A T I O N
2

3 I, SADIE L. HERBERT, Shorthand Reporter and
4 Notary Public in and for the State of New York,
5 do hereby CERTIFY that the foregoing record taken
6 by me at the date and place noted in the heading
7 hereof is a true and accurate transcript of same,
8 to the best of my ability and belief.

9
10 

11 SADIE L. HERBERT

12 Dated: February 3, 2008

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